



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

his master, while giving just value to certain princelets. The picture of court flunkysism in Berlin and of Bismarck's decline, when once it was clear that William II intended to be his own premier, is what has been suspected but not hitherto so bluntly stated.

It is disappointing that we get no new light on the causes of the war of 1870, on the details of 1890 when the rupture between emperor and chancellor occurred, or on the nature of the relations between Russia and the Dreibund.

Briefly, the matter of historical value (not all new, as has been said) which is given in this chaotic mass may be catalogued under three heads: the light thrown on Bismarck's relations with the first emperor; the reasons why the chancellor's influence waned when William II ascended the throne; and a few state papers, many inspired articles for the venal Spanish, French and German journals, and some remarkable letters rescued from oblivion. As a specimen of valuable papers we may note a letter from the Crown Prince in 1863 with Bismarck's notes, the articles printed in Spanish and French journals antecedent to 1870, and the correspondence of 1879 relating to the alliance with Austria.

There is much of genuine biographical interest: for example, Bismarck's "weakness" for Americans, his inability to appreciate much of Goethe, his literary opportunities and the like. But the reader must not think of Busch as a Boswell. He never interacts for a moment on his employer, and he has no apprehension of the minor traits or tricks in speech or manner which really delineate the man. It is even dubious whether Busch is in any degree the Procopius of the German wars. Of this we cannot be sure until the appearance of the Bismarck memoirs, now in the press.

WILLIAM M. SLOANE.

Township and Borough. By FREDERICK WILLIAM MAITLAND, LL.D., Downing Professor of the Laws of England in the University of Cambridge, Cambridge. The University Press, 1898. — ix, 220 pp.

In the October term of 1897 Professor Maitland delivered at the University of Oxford a series of six lectures, which are here published under a title that conceals rather than suggests the actual purpose and interest of the author. Although the lectures deal with the origin of the borough and the influences that differentiated it from the vill, they are in reality mainly concerned with two special ques-

tions — the development, first, of the idea of property and ownership in the modern sense ; and, secondly, of the idea of corporate unity, the “ its,” in distinction from the “ theirs,” as Professor Maitland puts it. The lectures are an expansion and in part a modification of thoughts expressed in previous writings, stimulated anew by the reading of Gierke’s *Genossenschaftsrecht*, and supported by data drawn from the history of Cambridge, into the detail of which Professor Maitland has gone with great minuteness, especially in all that relates to the question of ownership in the open fields.

The author presents the problem by stating that in Cambridge, in 1803, an enclosure movement gave rise to a dispute regarding the ownership of 1200 acres of open fields in which there were some five acres of waste — balks and odds and ends of sward. Here was land without a certain owner, in England where it is written : *Nulle terre sans seigneur*. There was no lord of the manor, for Cambridge never had been a manor ; the king, whatever he might have done three centuries earlier, put in no claim ; and it was left for the municipal corporation, three colleges and a neighboring squire to dispute among themselves for the ownership. The jury decided in favor of the municipality, and so established the fact that the municipal corporation had the best claims to the waste land. Was this historically right ? Did King John, in his grant to the burgesses of Cambridge six centuries before, look on the men of the vill as a corporate body ? Did he confer upon such a body ownership in the soil, with right of escheat and all incidents, as if he were making a grant of land to an individual, a feudal lord, and so placing another story on the feudal edifice ?

The first answer comes quickly : King John and his councillors would not have understood the meaning of such a question ; the words “ corporation ” and “ corporate ownership ” are modernisms ; the idea of the *persona ficta* was evolved slowly and painfully as part of the moral and economic struggles of the vill-town community ; and “ its,” as distinguished from “ theirs,” is not to be looked upon as an “ ingenious artifice of jurisprudence,” but as a something the history of which demands “ patient and sympathetic investigation.” To this history, as far as it concerns one borough, Cambridge, Professor Maitland has devoted a great deal of unwearied research.

Stating it to be an historical fact that the corporate idea was definitely embodied in words in the fifteenth century, he nevertheless insists that this same idea “ twitched in the brow and quivered on the lip ” of the men of the boroughs long before Henry VI granted

the famous charter for Hull. But he refuses to entertain any proposition that locates the corporate idea with the primitive family or the primitive community ; and he even goes so far as to say that corporateness never could have developed in the vill, simply because there never was any economic or practical need of corporate unity in an organization so simple as that of the village community.

Corporateness and corporate ownership took shape, therefore, he concludes, in the boroughs, the *burgi* of Domesday, the old shire-towns, where the conditions of organization and life demanded growth and change and the development of new ideas. These boroughs were vills in origin, for they had open fields, acre strips, balks, meadows, pasture and waste. But they were not ordinary vills ; because an "early tribal and national purpose and policy" had made them more populous, compact and military, had made them *tūns*, the markets and moot-stows of shires, had located them outside the hundreds, with a judicial organization of their own ; and because they were not under a manorial lord or on the demesne land of the king, their men going with their land to what lord or what church they pleased. Furthermore, they lost their peculiar character as vills, when by the time of Edward I the dominance of trade and the market disintegrated the old hides, hastened the sale of acre strips, and by breaking down the open field system cleared the way for urban life—for that complicated social and business activity, that highly organized and complex society, where first appears ownership in the modern sense, and whence the conception of that fictitious person, the corporation, first emerges.

Having thus presented his propositions, Professor Maitland turns to the Cambridge evidence and sets before us the data on which he bases his theories. He first traces back step by step the men who owned the open fields, and finds that the unequal and irrational arrangement of the fourteenth century was preceded two centuries earlier by a more proportionate system, itself the outcome of an original tribal distribution ; and he even hazards a conjecture regarding a special "allotment made in the oldest days to some chieftain ; *secundum dignationem*, as Tacitus said." He finds also that, though the lands owned by colleges in the later period were in the hands of religious houses in the fourteenth century, they came originally, not from great lords in large parcels, but in small amounts from laymen and burgesses, — mayors, bailiffs and gildsmen of the borough, — who appear to have held the majority of the acres in the twelfth century. He believes, also, that the want of any corporate sense on

the part of the strip-owners made usurpation easier by bishops and lay lords, inasmuch as "that crystal of which we can say, 'This is ownership and nothing but ownership,' " had begun to form only around the individual man—in a feudal way around the feudal seignior; in a modern way around the individual burgess—but not as yet around any group of persons, such as a borough government, which was not a unit but a plurality.

Corporate ownership was, then, very late in shaping itself, though ownership in the modern sense had already been conceived. In the boroughs the burgesses early rid themselves of feudal incidents and established a rent-paying or burgage tenure; so that even while the municipal organization was essentially individualistic,—the "it" unformed, the "their" dominant,—landownership received "a modern degree of purity and intensity." But not so corporate ownership. Professor Maitland traces its slow and uncertain growth; he shows it crystallizing gradually about the possession of intra-mural waste and the payment of *haw-gavel*; he shows that the transition from community to corporation had been accomplished in the fourteenth century, but that the corporation was still plural and the extent of its rights undetermined; he notes the long struggle of the corporation to control the commons, to regulate the arable and to make enclosures; and in a rapid survey he brings us back to the point of departure,—the trial of 1803,—with the ownership of the soil of the waste still undecided and the notion of corporate obligation still so hazy that, thirty years later, a Cambridge common councillor could say "that the property of the corporation belonged *bona fide* to the corporation, and they had a right to do what they pleased with their own."

Here Professor Maitland left his hearers, and here he leaves us, with a word of warning against the assumptions that all England passed through the manorial stage—for Cambridge never was a manor—and that all English land had a manorial lord—for the Cambridge waste for six centuries had no certain owner; and he bids us not to call that corporate which is only common, nor that ownership which is only the right to regulate and to rule.

The value of these lectures lies rather in the direction toward which they turn the thoughts of the reader than in the extent of proof brought forward to support the theories presented. Professor Maitland has studied in detail but one borough, and ever and again cautions the reader against believing that the history of one borough is the history of all. But in showing what can be obtained from the

terriers of Cambridge and in printing his evidence in the appendix, — itself, in fact, a separate treatise, — he has opened a new field of investigation for the student, not only of feudal institutions, but of the history of law and economics in all their phases. It is through such work as this that the student may learn, if he does not know it already, the value of detailed investigation into the history of local institutions.

CHARLES M. ANDREWS.

BRYN MAWR COLLEGE.

Grandeur et décadence de la guerre. By G. DE MOLINARI.
Paris, Guillaumin, 1898. — 314 pp.

The aspects of war which have been treated at length are so numerous as to defy accurate computation ; but there is one which has received surprisingly little attention — namely, the economic. This is precisely the point of view from which M. de Molinari has approached the question ; and herein lies his chief original contribution. In other respects his creed is that of the optimists, of whom, indeed, he is now the patriarch. A contemporary and friend of Cobden, he has lived to see all the expectations cherished by his generation disappointed ; and he has written this book to explain why this has happened. This fact accounts, not only for the tone of bitterness which pervades the latter part of the book, but also for the author's failure to maintain throughout the point of view with which he begins. His fundamental proposition, as developed in the first seven chapters, is that *war is a business undertaking, conducted to secure a profit for its promoters.*

War arises, in the first place, says the author, as a phase of the struggle for existence ; and this, being translated into ordinary language, is merely business competition. By a successful war a hunting tribe can extend their hunting grounds, and thus increase their food supply. Failing in this, they must resort to infanticide and likewise to the premature taking off of the aged, in order to equalize population and means of sustenance ; and these customs are accordingly the rule among tribes unable to make headway against their neighbors. For such a tribe, war is not only a business enterprise, but the only business enterprise open to them. As soon as a tribe becomes agricultural, however, it loses its mobility and cohesion ; and, unless protected by its location, it speedily falls under the sway of predatory neighbors. These, finding permanent occupation more profitable than scattering raids, settle in the country as a ruling class, supported